

Remarks

Interview Summary

On July 6, 2000, counsel and the principal of assignee, Mr. Ford, met with Mr. Graham and Mr. Chambers at the U.S. Patent and Trademark Office to discuss the present application. Applicant greatly appreciates the time and consideration provided by the Examiners.

During the interview, several issues presently before the Office were discussed in detail. First and foremost, a response to assertions made by the inventor regarding Canadian prior art was discussed. As counsel and assignee specifically indicated, this issue was raised by inventor MacNeil only after he was refused additional and unwarranted payment by assignee, Shamrock Lacrosse. Enclosed please find the sworn declarations of Mark Ford, Peter Rogers and counsel, Scott J. Fields, addressing this issue. The Ford and Rogers declarations set forth in great detail the history of the relationship with Mr. MacNeil, the contention by Mr. MacNeil that the offset was within parameters of his invention, and the fact that it was only after MacNeil was refused additional compensation that he raised unsubstantiated allegations of prior art. The declaration of the undersigned counsel clearly attests to the communications he had with Mr. MacNeil in which Mr. MacNeil raised the issue only after being refused remuneration.

Neither counsel nor applicant are aware of any alleged Canadian prior art and have never been presented with such by Mr. MacNeil.

With respect to the claims, applicant has amended the application to remove the requested reissue of Claim 1 and all claims dependent thereon so as to return those claims to their initial issued state.

Applicant is therefore relying exclusively on the amendments to Claim 12 herein. The language of Claim 12, as presently amended, constitutes a broadening reissue which fully falls within the scope of the original Reissue Declaration.

Filing by Assignee

Applicant is unaware of any statute, rule or precedent which would preclude the filing of a broadening reissue on behalf of an assignee. In fact, the statute and rules specifically provide a number of instances where an assignee stands in the shoes of the inventor/applicant for purposes of filing both an original and reissue application. The rules governing Reissue Application contemplate the possibility of an unavailable or uncooperative inventor. In the present case, it was necessary for applicant to move pursuant to Rule 47 based on the refusal by Mr. MacNeil to execute the Reissue Declaration.

Support for Amendment

Finally, as previously set forth, applicant has explicitly shown that the drawings and figures in the original patent clearly support the amended language pursuant to the Muhurkar line of cases. Moreover, the application itself supports this language. The application speaks of a downwardly extending outer wall. This position was explicitly and thoroughly briefed in the last Response and is incorporated herein by reference. Applicant's position is further supported by the declaration of an expert. Accordingly, the Application supports the amended claims.

Conclusion



The present application is deemed to be in condition for reissue. A prompt allowance is respectfully requested.

Respectfully submitted,

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